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SUPREME COURT, U. S.

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IN THE  
**Supreme Court of the United States**

OCTOBER TERM, 1948.

No. 110.

WILLIAM R. McCOMB, Administrator of the Wage and Hour  
Division, United States Department of Labor,  
*Petitioner.*

v.

JACKSONVILLE PAPER COMPANY, ET AL.

**SUPPLEMENTAL BRIEF FOR RESPONDENTS IN  
OPPOSITION TO PETITION FOR WRIT OF  
CERTIORARI TO THE SUPREME COURT  
OF THE UNITED STATES.**

LOUIS KURZ,  
608 Consolidated Building,  
Jacksonville 2, Florida,  
*Attorney for Respondents.*

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In addition to the reasons urged in the Brief for Respondents filed herein, Respondents now present for the consideration of the Court the following facts transpiring after the printing of the brief herein as an additional reason why certiorari should not be granted in this case:

Section 350 U. S. C. limits the time within which certiorari may be allowed to three months after the entry of the judgment to be reviewed, but provides that for good cause shown this period may be extended not exceeding sixty days by a Justice of the Supreme Court.

The judgment of the Circuit Court of Appeals was entered March 23, 1948 (2nd R. 1125). The Petition for Certiorari was filed on June 21, 1948, and notice of the Petition was not received by Respondents until after the time for filing a Cross-Petition had expired but within the sixty

day extension which the Statute permits. Within said sixty day period, i. e., on July 21, 1948, Respondents transmitted to the Clerk of this Court a Motion for Extension of Time within which to file a Cross-Petition for Certiorari and Respondents were advised by the Clerk of this Honorable Court on July 26, 1948, that said Petition was presented to Mr. Justice Black and on that day endorsed "Denied because application for extension presented too late".

It appears, therefore, that in the event the Petition for Certiorari is granted, Respondents may not be permitted to urge in this Court that the Circuit Court of Appeals erred in affirming the Lower Court on the points raised by Respondents, one of the most important being the finding that a bonus paid at the end of the year must be considered in determining the regular rate of pay during the succeeding year, for the purpose of computing overtime compensation.

As the Circuit Court of Appeals declined to require Respondents to pay the additional compensation which Petitioner contends should have been adjudged as a matter of right, Respondents did not seek a review by this Court but it is manifest that if a review is granted at the instance of the Petitioner, a full and just determination cannot be made without determining also whether the judgment of the Circuit Court of Appeals on the merits is correct. As Respondents' Petition for Extension of Time was denied, it is our understanding that these important points cannot be raised in this Honorable Court. (*Morley Construction Company v. Maryland Casualty Company*, 300 U. S. 185). Hence, we respectfully urge that this is a compelling reason why the Petition for Certiorari should be denied.

Respectfully submitted,

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